

REMARKS

With this Amendment, independent claims 1 and 18 have been amended to further clarify the invention and claim 22 has been cancelled. Claims 1-5, 7-19, 21 and 23-24 are currently pending in the instant application.

Claims 1-5, 7-8, 11-13, 18-19, 21 and 23 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,125,893 ("Dryden"). Claims 9-10 and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dryden in view of U.S. Patent 6,375,637 ("Campbell"). Claims 14-17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dryden. Claims 1 and 18 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

Claim Rejections Under 35 U.S.C. § 102(b)

On page 3 of the Office Action, the Examiner rejected claims 1-5, 7-8, 11-13, 18-19, 21 and 23 under U.S.C. § 102(b) as being anticipated by Dryden. Without conceding to the Examiner's assertions of anticipation, Applicants have amended independent claims 1 and 18.

Regarding independent claims 1 and 18, it is submitted that Dryden does not anticipate the currently pending claims. "A claim is anticipated only if each and every element set forth in the claim is found, either expressly or inherently described in a single prior art reference." *See* MPEP § 2131; *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

The Office Action alleges that Dryden discloses a catheter system of the present invention. It is respectfully submitted that Dryden does not disclose such a system. Claims 1 and 18 have been amended to be directed, in part, to a catheter system comprising a pressure

control element “wherein the overpressure control element comprises an extension tube connected to the first end, and is configured to permit flow therepast the element.”

On page 5 of the Office Action, the Examiner correctly states that Dryden does not disclose the control element having an extension tube, as is recited in currently amended claims 1 and 18.

As a result, all of the elements of the claims are not found in Dryden, and a prima facie case of anticipation has not been set forth for the currently amended claims.

Moreover, because all of the limitations of the independent claims are not found in the reference, the same holds true for the claims that depend therefrom.

From the foregoing, the Examiner’s rejections under 35 U.S.C. § 102(b) of claims 1-5, 7-8, 11-13, 18-19, 21 and 23 are believed to be overcome. It is, therefore, respectfully requested that the Examiner withdraw these rejections.

Claim Rejections Under 35 U.S.C. § 103(a)

On page 5 of the Office Action, the Examiner rejected claims 9-10, 14-17, 22 and 24 under 35 U.S.C. § 103(a) as being unpatentable over Dryden, in view of Campbell. With this Amendment, independent claims 1 and 18 have been amended and claim 22 has been cancelled.

With regard to the rejection of claims 9-10, 14-17 and 24, each of these claims depend directly or indirectly from independent claims 1 or 18. As discussed above, claims 1 and 18 have been amended to be directed, in part, to a catheter system comprising a pressure control element “wherein the overpressure control element comprises an extension tube connected to the first end, and is configured to permit flow therepast the element.”

As correctly stated in the Office Action, Dryden does not disclose the control element having an extension tube connected to the first end. It is respectfully submitted that the

Campbell reference does not cure this deficiency.

On page 5, the Office Action states that Campbell discloses the use of an extension tube for use with an overpressure control element. However, Campbell fails to disclose the use of an overpressure control element which comprises an extension tube connected to the *first end, and is configured to permit flow therepast the element*, as is recited in the presently amended claims. Nowhere in Campbell is this element disclosed. The Office Action points to columns 1-3 of Campbell as disclosing such elements. A review of these paragraphs, however, merely disclose a balloon catheter with a failure mechanism, but no where in Campbell, nor has the Office Action pointed out, where it is disclosed that an extension tube is connected to the first end of a pressure control element, wherein it is configured to permit flow past the control element, as is recited in the currently amended claims.

Moreover, because all of the limitations of the independent claim are not found in the references, the same holds true for the claims that depend therefrom.

As a result, all of the elements of the claims are not found in the publications cited by the Examiner, and a prima facie case of obviousness has not been set forth for the currently amended claims.

In view of the foregoing, the Examiner's rejections under 35 U.S.C. § 103(a) of claims 9-10, 14-17 and 24 are believed to be overcome. It is, therefore, respectfully requested that the Examiner withdraw this rejection.

Claim Rejections Under 35 U.S.C. § 112

On page 7 of the Office Action, the Examiner rejected 1 and 18 under 35 U.S.C. § 112, second paragraph, as being indefinite because it is unclear where the overpressure control element configures fluid flow "therepast." With this Amendment, claims 1 and 18 have been

amended to further clarify the invention.

In view of the foregoing, the Examiner's rejections under 35 U.S.C. § 112, second paragraph of claims 1 and 18 are believed to be overcome. It is, therefore, respectfully requested that the Examiner withdraw this rejection.

CONCLUSION

From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order and such action is respectfully requested.

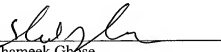
In the event that there are any questions relating to this Amendment or to the application in general, it would be appreciated if the Examiner would contact the undersigned attorney by telephone at (202) 373-6000 so that prosecution of the application may be expedited.

The Director is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 50-4047 (7061822001).

Respectfully submitted,

BINGHAM MCCUTCHEN, LLP

Date: February 3, 2010

By: 
Shameek Ghose
Registration No. 61,802

BINGHAM MCCUTCHEN, LLP
2020 K Street, NW
Washington, DC 20006
Telephone: (202) 373-6000
Facsimile: (202) 373-6001